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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,592	07/29/2003	Gilberto Loprieno	CISCP832	1659
26541	7590	03/17/2005	EXAMINER	
RITTER, LANG & KAPLAN 12930 SARATOGA AE. SUITE D1 SARATOGA, CA 95070			LIN, WEN TAI	
			ART UNIT	PAPER NUMBER
			2154	

DATE MAILED: 03/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/630,592

Applicant(s)

LOPRIENO, GILBERTO

Examiner

Wen-Tai Lin

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/24/04
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

1. Claims 1-33 are presented for examination.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-6, 9, 11-16, 19-24 and 27-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Kato[U.S. PGPub 20020184385].
4. As to claims 1-5 and 9, Kato teaches the invention as claimed including: a method for processing a packet, the packet including at least one frame and a preamble arrangement, the preamble arrangement including at least one preamble associated with at least one frame [e.g., Figs.23-27], the method comprising:

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receiving a packet from a first network element included in a network path at a second network element included in the network path [e.g., paragraphs 126 and 131; note that the teaching for using a distributor to transmit received signals to another stage of receivers is a tandem connection];

determining whether at least one error has arisen between a source of the network path and the second network element; and

inserting a first error count indication in the preamble arrangement which substantially accounts for the at least one error when it is determined that the error has arisen between the source of the network path and the second network element, wherein the bit-interleaved parity associated with a previous packet is calculated by a subsequent source and stored in the preamble arrangement [paragraphs 235-239].

5. As to claim 6, Kato further teaches that when the second network element is a sink of the network path, the method further including:

identifying a number of errors between the first network element and the second network element; and

extracting at least one of a full path remote error indication and a full path remote defect indication from the preamble arrangement [e.g., Figs. 26-27; paragraphs 244-245].

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6. As to claims 11-16, 19-24 and 27-31, since the features of these claims can also be found in claims 1-6, they are rejected for the same reasons set forth in the rejection of claims 1-6 above.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 7, 10-11, 17-19 and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brissette et al.(hereafter "Brissette")[U.S. PGPub 20040184489] in view of Kato [U.S. PGPub 20020184385].

9. As to claims 1 and 7, Brissette teaches the invention substantially as claimed including: a method for processing a packet, the packet including at least one frame and a preamble arrangement, the preamble arrangement including at least one preamble associated with at least one frame, the method comprising:

receiving a packet from a first network element included in a network path at a second network element included in the network path;

determining whether at least one error has arisen between a source of the network path and the second network element; and

inserting a first error count indication which substantially accounts for the at least one error when it is determined that the error has arisen between the source of the network path and the second network element [paragraphs 2, 23, 26 and claims 5-8].

Brissette does not specifically teach inserting a first error count indication in the preamble arrangement. However, in the same field of endeavor, Kato teaches that the error portion and packet IDs may be included in the preamble [paragraph 235].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply Kato's teaching in Brissette's system by inserting error indications in the preambles because such an arrangement is an obvious alternative and it would further simplify the tandem connection monitoring process by focusing on the preamble section for any potential error.

10. As to claims 10-11, 17-19 and 25-26, since the features of these claims can also be found in claims 1 and 7, they are rejected for the same reasons set forth in the rejection of claims 1 and 7 above.

11. Claims 8 and 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brissette et al.(hereafter "Brissette")[U.S. PGPub 20040184489] and Kato [U.S. PGPub 20020184385], as applied to claims 1, 7, 10, 17-18 and 25-26 above, further in view of Carson et al.(hereafter "Carson")[U.S. PGPub 20040066750].

12. As to claims 8 and 32-33, Brissette and Kato does not specifically teach that the performance monitoring information includes one of a K1 byte, a K2 byte, and a K3 byte and that the packet is an Ethernet packet.

However, in the same field of endeavor, Carson teaches a system/method for adapting Ethernet directly to physical channel by encapsulating Ethernet's MAC frames into SDH/SONET SPE/VC using LAPS [abstract], wherein a portion of K2 are used as an AIS or Remote Defect Indication (RDI) at the line/MS level, and in SONET, they are also used for APS signaling [Carson: paragraph 281].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Carson's teaching into the Brissette's and Kato's systems by encapsulating Ethernet frames directly to physical channels such as SDH/SONET because the adaptation facilitates the interface between the two different communication layers.

As to the features of claims 32-33, it is an obvious to apply the same adaptation to the Converged Data Link (CDL) protocol, because the latter's ability to increase the distance over which signals are communicated over an Ethernet medium is an obvious advantage for such application.

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Sugawara; et al. [U.S. Pat. No. 6697386].

**14.** A shortened statutory period for response to this action is set to expire 3 (three) months and 0 days from the mail date of this letter. Failure to respond within the period for response will result in ABANDONMENT of the application (see 35 U.S.C. 133, M.P.E.P. 710.02, 710.02(b)).

### ***Conclusion***

**Examiner note:** Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the contest of the passage as taught by the prior art or disclosed by the Examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wen-Tai Lin whose telephone number is (571)272-3969. The examiner can normally be reached on Monday-Friday (8:00-5:00) .

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571)272-3964. The fax phone



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numbers for the organization where this application or proceeding is assigned are as follows:

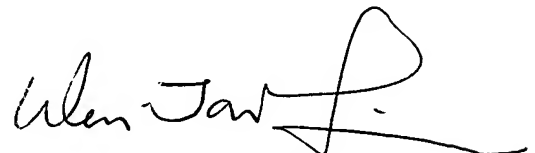
(703)872-9306 for official communications; and

(571)273-3969 for status inquires draft communication.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wen-Tai Lin

March 16, 2005



3/16/05